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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,443	07/30/2003	Jerry E. Bandstra	2-5169-049	9315

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EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 04/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,443

Applicant(s)

BANDSTRA ET AL.

Examiner

Árpád Fábián Kovács

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/30/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

2. Claims 9, 12 are objected to because of the following informalities: missing -- . -- at the end of the claim 9; in claim 12, In 1, "teeth" should be tooth, since only "tooth" was recited in claim 11. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9-10, 15, 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9, 15, 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. In re claim 9, "greater than teeth having **other** characteristics ..." is indefinite; it is unclear what the "other" includes or excludes.

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Similarly in re claims 15, 17, "a pickup header that is a same width as the width of the processing unit" is indefinite, since there are headers located at different locations in the art, therefore it is unclear what is included or excluded.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

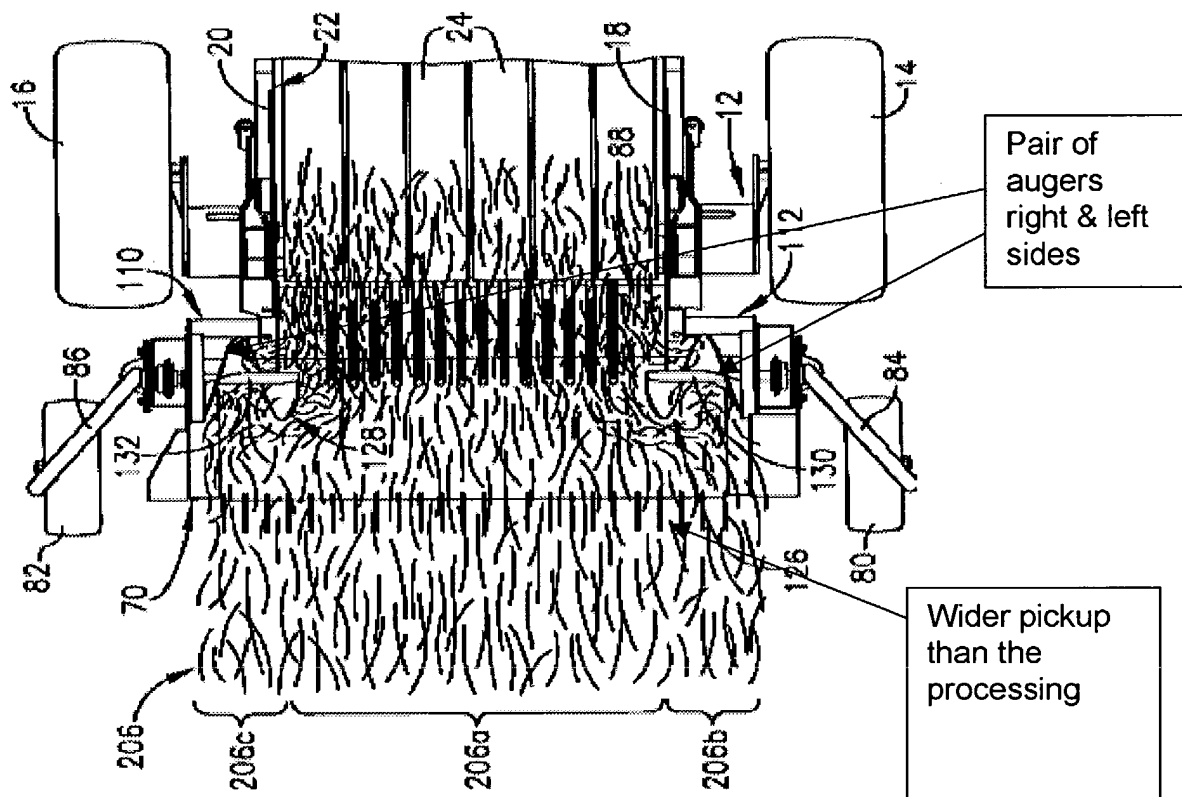
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Ratzlaff et al (6029434).

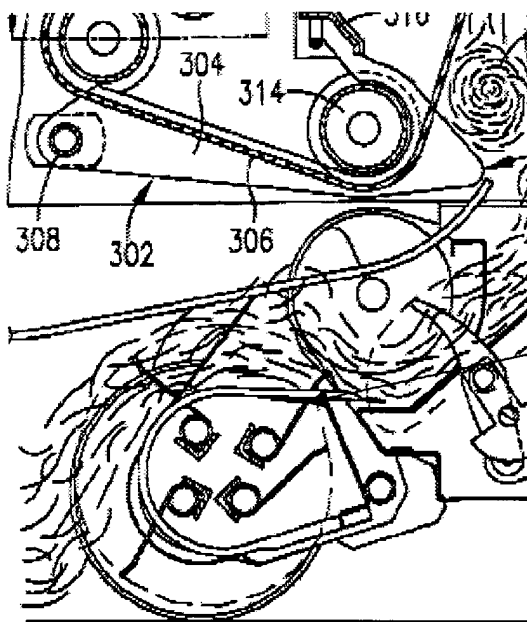
In re claim 8. An apparatus for crop processing having a processing width defined by a distance between a left side and a right side of a processing unit, the apparatus comprising:

(a) a pickup header that is wider than said processing width; and

(b) a pair of augers on at least one of a right side and a left side of the pickup header to move crop material laterally.

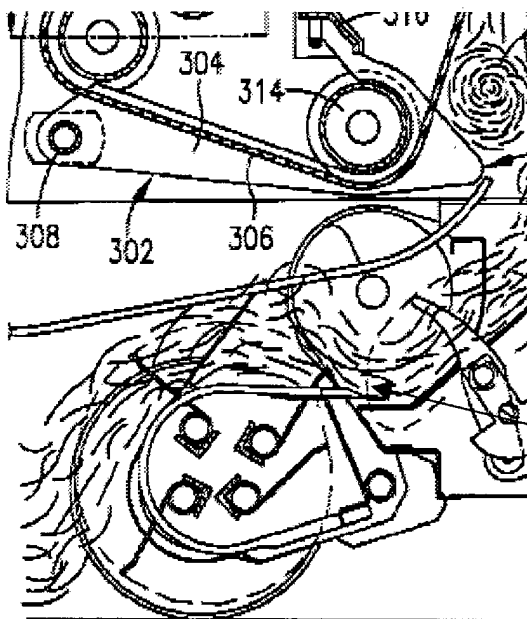


In re claim 9: additionally comprising teeth in the pickup header, said teeth comprising a laid back tooth having an angle measured between itself and a radial line passing through the pickup header axis and a base of the laid back tooth greater than teeth having other characteristics in the pickup header.



Laid back tooth

In re claim 10: wherein the laid back teeth are used in a region of the pickup header that sweeps under the at least one pair of augers.



Sweeps under

In re claim 11: additionally comprising teeth in the pickup header, said teeth comprising a heavy tooth having a rigidity such that a force of at least 45 lb is required to detect

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said heavy tooth an angle of 41 (optimum value and/or preferred material design is inherent).

In re claim 12: wherein the heavy teeth are used in a region of the pickup header inside ends of the at least one pair of augers (as shown in re cl. 9; the end tines/fingers are the heavy ones).

In re claim 13: the pickup header additionally comprising teeth comprising:

(a) a laid back tooth having an angle measured between itself and a radial line passing through the pickup header axis and a base of the laid back tooth greater than teeth having other characteristics in the pickup header (see in re cl. 9 above); and

(b) a heavy tooth having a rigidity such that a force of at least 45 lb is required to deflect said heavy tooth an angle of 41 (see in re cl. 11 above).

In re claim 14: additionally comprising means to make a rotational speed of one auger of the at least one pair of augers different from a rotational speed of the other auger (the drive motors can be operated at different speeds in rotating the augers).

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In re claim 15: wherein said pickup header is located at a same position, relative to an axis of rotation of a wheel, as a pickup header that is a same width as the processing width (see in re cl. 8).

In re claim 16: wherein the apparatus for crop processing is a large round baler (see fig. 5).

As applied to claim(s) 1-7, 17, in view of the structure disclosed/taught by Ratzlaff, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used.

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP02003009647A, McClure et al., Grahl et al., McClure et al (6651418), Engel, Anstey et al., Roth, Engel et al., Horchler, Jr. Et al., Bohman et al., Groothuis.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703-308-5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK